

**Meeting Minutes**  
**Mercury Citizen Advisory Committee**  
**February 13, 2002**  
**The Pyle Center, Room 226**  
**702 Langdon Street**  
**Madison WI**

**Facilitator:** Bert Stitt

**Members Attending:** Eric Uram, Sierra Club; Steve Hiniker, Citizens Utility Board; Keith Reopelle, Wisconsin Environmental Decade; Russ Ruland, Muskellunge Club of Wisconsin; Annabeth Reitter, Wisconsin Paper Council; Jeff Schoepke, Wisconsin Manufacturers & Commerce; Joe Shefchek, Alliant Energy; Wayne Stroessner, Random Lake Association; John Coleman, Great Lakes Indian Fish & Wildlife Commission; Bill Skewes, Wisconsin Utilities Association, Inc.; Dave Hoopman, Wisconsin Federation of Cooperatives, Mark Yeager (alternate), Environmentally Concerned Citizens of Lakeland Areas; Bill McClenahan, Forest County Potawatomi; and Kathleen Standen, Wisconsin Electric

**Others Attending:** Bob Fassbender, HFO and Associates; Darrell Bazzell, Lloyd Eagan, Marty Burkholder, Jon Heinrich, Tom Karman, and Anne Bogar, DNR.

Welcome

Lloyd Eagan welcomed the Committee. She clarified a quote in a recent Milwaukee Journal Sentinel report by Lee Berquist, noting that she said there was a 100% chance that the rule would change but did not say that it would change to only address industry's concerns.

Check-In Round

Bert Stitt conducted a check-in with Committee members. Most Committee members were doing well.

January 18th Meeting Minutes Review

There were no changes.

Agenda Review

Joe Shefchek requested time on the agenda to report on the Germany trip. Lloyd Eagan and Eric Uram, participants on the trip, said they would like to report on it also. Noting that there may be time available from the TAG agenda item, Committee members agreed to hear the report as the first agenda item.

Germany Report Update

Lloyd noted that the Germany trip was a result of a partners effort with Bavaria. The focus was on energy and the environment, and it was a fact-finding trip. Lloyd distributed a copy of the trip agenda. She thought the trip was very successful and that it would take some time to digest all that was learned.

Joe covered his observed highlights of the trip. He thought the discussions were good and that there were shifts towards more agreement than disagreement on issues. He noted that the energy industry in Germany is ahead on some issues and behind on others. Mercury is not yet an issue there. He reviewed facilities and the

energy sources visited. Energy costs are higher in Germany. He observed that we need to learn how to be more efficient with the fuels we are using.

Eric summarized several trip highlights. He observed that meeting and exceeding environmental goals is a part of the German ethic. The delegation toured coal-produced energy facilities and solar and wind sources. He noted that there is a renewable energy tax which encourages entrepreneurs to get into the grid. He said there are lessons to be learned from the Germany grid.

Marty Burkholder asked why mercury was not an issue there. Joe responded that he was not sure. Germany is not monitoring the air emissions of mercury from the facilities. He suggested that because Germany is so densely populated, the industrial effects on resources are significant and they may accept some level of not having a pristine environment. Eric commented that the sludge had a high mercury concentration and they had come up with a treatment that reduces it to a few parts per million and reuse it. Also, fish is not a significant part of their diet, so fish contamination is not much of an issue there.

John Coleman asked what the lessons about mercury were from this trip. Lloyd responded that one lesson may be to be more efficient and use less coal so that we have less initial mercury emissions. Eric commented that they do use activated carbon but they did not learn if the Germans are doing fish studies and it was difficult to get a handle on what is being done with mercury in Germany. Joe commented that we appear to be on the cutting edge for mercury control. Germany does use a multi-pollutant approach but it does not include mercury.

#### Committee Report Outline

Marty Burkholder distributed a copy of a proposed report outline and a table of contents for the report. These were developed by the subgroup formed at the last meeting. He walked the Committee through the outline.

Steve Hiniker asked how the Committee would be able to get the report done in the two meetings left. Bert noted that this was something the Committee should address and asked Steve to write it up as a parking lot issue.

Keith Reopelle noted that on Section IV, "Environmental and Health," of the outline, the topic of wildlife impacts was dropped but should be included in the outline. Bill McClenahan suggested that "cost" be added to the benefits section.

**Action:** Add "wildlife impacts" under Section IV and "costs" to the benefits section. It was agreed that the outline was good.

The Committee spent time discussing how it could write the report and who would take responsibility for writing it. It was noted that the rule greensheet and draft environmental assessment provide some content for the report.

**Action:** Sections II (Introduction), the rule requirements of Section III (Purpose) and VI (Integration with Pending Federal Rules) were assigned to staff. Keith Reopelle will organize a schedule for the subgroup and Marty Burkholder will be the

contact for members to send drafts to. Eric Uram will begin putting together an annotated bibliography for the report. All members are to look at sections that they could start drafting or contribute to.

Bert provided instruction on consensus writing. When something is drafted and a member disagrees with it, the disagreeing member will rewrite it into something the group can live with.

It was agreed that report writing – either reviewing drafts or discussing process – will be an agenda item for the February 26 meeting.

#### Technical Advisory Group Technical Briefs

Tom Karman presented information related to a draft technical brief on the Maximum Achievable Control Technology (MACT) issue that the TAG is working on. He said that the technical brief raises issues related to implications of the MACT and the state rule requirements on sources. He noted that an important distinction with MACT is that it is supposed to be a currently available technology, so that technology concerns should not be an issue.

Tom responded to questions about when the draft would be final and why the Committee was reviewing it today. He noted that it was important for the Committee to be briefed on what the MACT process is, before reviewing the final technical brief and hearing from EPA at the next meeting. Tom briefed the Committee on MACT.

Joe Shefchek asked that in the purpose section of the report (Section III), staff explain why Wisconsin is going in a different direction from the rest of the country which is relying on MACT. He asked if installing the control technologies could trip a major modification requirement for New Source Review (NSR). Annabeth commented that it could, although in theory, with the pollution control project exemption (PCP), it should not. She said this was happening at her plant now. Projects to collect and treat additional hazardous air pollutants for a MACT standard have the potential for tripping NSR.

Joe asked that this issue also be included in the Table of Contents under Section VI on MACT. Jeff Schoepke commented that this is a difficult issue for industry. This means that industry cannot put control technologies on without tripping NSR, leaving the only way to meet mercury reductions through reduced production because the control technology installation through NSR is too expensive. Jon Heinrich suggested that these questions be asked when Bill Maxwell, EPA makes a presentation to the Committee.

Tom Karman commented that no one on the TAG was saying that the state rule and MACT are incompatible but they note that it is very hard to know what the MACT standard will be and that level is critical to assessing how it meshes with the state rule.

The Committee broke for lunch. Darrell Bazzell, Secretary, DNR addressed the Committee just before they reconvened. He thanked the Committee for their work and noted that he thinks the group is on the threshold of tackling the hard issues.

He urged the Committee to take the time necessary to do its work. He suggested the group discuss timing and provide feedback on that to him. He encouraged the Committee to keep up its momentum.

#### Mercury and Public Health in Wisconsin

Lynda Knobeloch, Department of Health and Family Services, made a presentation which is attached.

#### Wisconsin Statutory Provisions Constraining Wisconsin's Air Management Program

Tom Steidl, DNR Bureau of Legal Services, made a presentation to the Committee. He cited the statutory authority that is the basis for the Department's proposed rule, including s. 285.27(2)(b), Wis. Stats. which allows the Department to adopt a standard in absence of a federal standard. He covered the exceptions to the requirement that the Department adopt the same standard as the federal standard for NESHAPs.

Jeff Schoepke said that there is a chlor-alkali MACT and a waste incineration MACT, so industry interests are presuming that the Department does not have the authority to regulate those two industries. Tom responded that the Department has the authority to regulate mercury and where there are conflicting regulations they try to work it out. He commented that the courts would look to see if the standards are inconsistent and that the state rule is not a more restrictive standard than the one under the federal NESHAP. Thus, the Department could have a standard but it would need to ensure that its limit is not more restrictive than the federal NESHAP. Jeff responded that they believe the proposed rule is more restrictive and it is an issue of concern.

Joe Shefchek asked if there was a provision that if the rule is adopted and a federal MACT comes out in two years, the rule automatically goes back to the federal MACT. Tom responded that the Department would reexamine the rule if the MACT comes out and try to determine if there is consistency. If there is not, it is assumed that rule changes would be made.

Eric Uram asked if the rule is challenged for the chlor-alkali and waste incineration MACTs, is the whole rule struck or just for those sources. Tom responded that the court usually just strikes the requirements for those two sources and not the entire rule.

Bill Skewes asked if the statute requires that the state adjust the standard if there is a less restrictive standard passed by the federal government. Tom responded that the statute does not address the issue of the state having a standard and the federal government then promulgating one and the state having to readjust. However, if a federal standard is adopted first, the state cannot have a more restrictive standard.

#### Matrix/Index to Proposed Rule

Jon Heinrich noted that the updated version needs to add comments received from Dave Hoopman, Keith Reopelle and Bill Skewes. These will be added.

**Action:** Comments from Dave, Keith and Bill will be added and the matrix will be sent to Committee members for drafting responses for the “Possible Revisions to the Rule and other Actions” column for the first 12 priority items. Responses are due to Anne Bogar by Wednesday, February 20. The responses will be incorporated into a new version and brought to the next meeting for discussion.

#### Setting Agenda for Next Meeting

The Committee agreed to the following agenda items for the next meeting:

Presentation by Bill Maxwell, EPA  
Wisconsin Electric Presentation on Research Findings  
TAG/CAC Alignment Discussion  
Report Review (Subgroup)  
Matrix Discussion

#### Parking Lot

The Committee agreed to set additional meetings:

Wednesday, April 10, 2002 from 9:30 – 1:30  
Retreat: Tuesday, April 30 and Wednesday, May 1, 2002

Staff will begin work on a location for the retreat.

Bill Skewes noted that he would like a chance at a Committee meeting to discuss the WUA modeling research and the loon research.

#### Closing Round

Numerous Committee members expressed frustration about too little discussion time while others noted seeing a value in deliberating carefully and taking the time needed.